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In re Application of :
DIEFENBACHER et al. :
Application No.: 10/598,639 : DECISION
PCT No.: PCT/EP2005/051057 :
Int. Filing Date: 09 March 2005 :
Priority Date: 10 March 2004 :
Attorney Docket No.: 5880 :
For: METHOD AND SCANNING ARRANGEMENT :
FOR THE CONTACTLESS SCANNING OF THREE- :
DIMENSIONAL OBJECTS AND DEVICE FOR :
HOLDING THE OBJECTS :

This is a decision on applicants' renewed petition under 37 CFR 1.47(a) filed 13 February 2008 in the United States Patent and Trademark Office (USPTO). The petition is **DISMISSED** as **MOOT**.

BACKGROUND

On 09 March 2005, applicants filed international application PCT/EP2005/051057, which designated the United States and claimed a priority date of 10 March 2004. A copy of the international application was communicated from the International Bureau to the USPTO on 22 September 2005. The thirty-month period for paying the basic national fee in the United States expired at midnight on 11 September 2006 (10 September 2006 being a Sunday).

On 07 September 2006, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 26 April 2007, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(h) were required. The NOTIFICATION set a two-month extendable period for response.

On 13 September 2007, applicants filed a response including a declaration of inventors, the surcharge under 37 CFR 1.492(h), and a petition/fee for a three month extension of time.

On 26 October 2007, the DO/EO/US mailed a NOTIFICATION OF DEFECTIVE RESPONSE (Form PCT/DO/EO/916) indicating, *inter alia*, that the declaration submitted 13 September 2007 was not in compliance with 37 CFR 1.497(a)-(b) because it did not indicate the inventor Dean Stoops.

On 26 November 2007, applicants filed a submission which included, *inter alia*, a petition under 37 CFR 1.47(a).

On 25 June 2007, a decision was mailed dismissing without prejudice applicants' petition under 37 CFR 1.47(a) for failing to provide factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort. The decision also noted that the declaration of inventors filed 13 September 2007 was not sufficient because it did not identify all of the inventors.

On 13 February 2008, applicants filed the instant renewed petition under 37 CFR 1.47(a) which was accompanied by a declaration of inventors signed by previously non-signing inventor Rolf Diefenbacher.

DISCUSSION

Since a 37 CFR 1.497 declaration has been executed by all the joint inventors, the petition for status under 37 CFR 1.47(a) is moot. The application need not be returned to the Office of PCT Legal Affairs for any further consideration of the status under 37 CFR 1.47 and no such status should be indicated on this application file.

A declaration of inventors signed by Dean Stoops was filed 13 September 2007 and a declaration of inventors signed by Rolf Diefenbacher was filed 13 February 2008. Neither is in compliance with 37 CFR 1.497(a)-(b). Each declaration only lists one inventor. As noted in the decision mailed 18 January 2008, each declaration must list all inventors even if it is signed by only one of the inventors. A declaration (or declarations each) listing all inventors and signed by all inventors must be provided. The declaration must meet all other requirements of 37 CFR 1.497(a)-(b) as well.

CONCLUSION

For the above reasons, applicants' petition under 37 CFR 1.47(a) is **DISMISSED** as **MOOT**.

A proper response (a declaration (or declarations each) listing all inventors and signed by all inventors and otherwise in compliance with 37 CFR 1.497(a)-(b) must be provided) must be filed within a time limit of **ONE MONTH** from the date of this decision or within the time remaining in the response set forth in the decision mailed 18 January 2008, whichever is longer. No extension of this time limit may be granted under 37 CFR 1.136, but the period for response set in the decision mailed 18 January 2008 may be extended under 37 CFR 1.136(a).

Any further correspondence with respect to this matter may be filed electronically via EFS-Web or if mailed should be addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

/Daniel Stemmer/

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